

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

ROBERT WADE PLUMIER, as Son and
Personal Representative of the Wrongful Death Beneficiaries
of ROBERT WAYNE PLUMIER, Deceased,
and ESTATE OF ROBERT WAYNE PLUMIER, Deceased PLAINTIFFS

VERSUS CIVIL ACTION NO. 1:18-cv-00013-HSO-JCG

MISSISSIPPI DEPARTMENT OF CORRECTIONS;
SOUTH MISSISSIPPI CORRECTIONAL INSTITUTION;
WEXFORD HEALTH SOURCES, INC.;
JACQUELYN BANKS, in Her Individual and Official Capacity;
MARSHALL TURNER, in His Individual and Official Capacity;
BRENDA SIMS, in Her Individual and Official Capacity;
and JOHN OR JANE DOES 1 – 15, in Their Individual
and Official Capacities DEFENDANTS

PLAINTIFF'S MOTION FOR DISCOVERY
ON LIMITED ISSUE OF QUALIFIED IMMUNITY
AND FOR EXTENSION OF TIME TO ANSWER MOTION

COMES NOW the Plaintiff, ROBERT PLUMIER, as Son and Personal Representative of the Wrongful Death Beneficiaries of ROBERT WAYNE PLUMIER, and the ESTATE OF ROBERT WAYNE PLUMIER, DECEASED, by and through his attorney of record, and files this Motion for Discovery on Limited Issue of Qualified Immunity and for Extension of Time to Answer Motion, and for good cause, would show the following:

I.

On or about August 31, 2017, the Plaintiff filed a Complaint [Doc. 1] in this Court. On September 21, 2017, Plaintiffs' filed a [3] Stipulation of Dismissal of Defendant, Centurion of Mississippi, LLC, and also filed their [4] First Amended Complaint. All Defendants were served with process and have filed their Answers to the First Amended Complaint. See [Doc. 7, 23, and 24.]

II.

On February 22, 2018, Defendants, Mississippi Department of Corrections (“MDOC”), South Mississippi Correctional Institution (“SMCI”), Jacquelyn Banks, in her individual and official capacity, Marshall Turner, in his individual and official capacity, and Brenda Sims, in her individual and official capacity, filed their [35] Motion to Dismiss Based on Eleventh Amendment Immunity, State Law Immunity and Qualified Immunity, and the Court entered an [37] Order Staying Proceedings pending a ruling on the Defendants’ [35] Motion to Dismiss.

III.

The Telephonic Case Management Conference was scheduled to occur before the United States Magistrate Judge on March 7, 2018; however, it was canceled after the Court entered the Order staying proceedings. To date, no discovery has been conducted in this case.

IV.

Plaintiffs would show that discovery on the limited issue of qualified immunity is needed in order for Plaintiffs’ to properly respond to the Defendants’ [35] Motion to Dismiss. Without said discovery, Plaintiffs will be prejudiced and unable to adequately respond to the immunity issues raised by these Defendants. Plaintiffs therefore request that the Court allow discovery to be conducted on the limited issue of qualified immunity.

V.

Should the Court grant this request, Plaintiffs also seek an extension of time to file their response to the Defendants’ [35] Motion to Dismiss, with said deadline to occur after the conclusion of the period of time allowed for the parties to conduct the requested discovery on qualified immunity.

VI.

This Motion is not filed for purposes of delay, and the Defendants will not be prejudiced should the Court grant the Plaintiffs' request for limited discovery in this case.

WHEREFORE, PREMISES CONSIDERED, the Plaintiffs respectfully request that the Court grant their Motion and allow discovery to proceed on the issue of qualified immunity, and also extend the deadline for Plaintiffs' response to the Defendants' [35] Motion to Dismiss until after said discovery has been completed.

DATE: March 6, 2018.

Respectfully submitted,
**ROBERT WADE PLUMIER, as Son and Personal
Representative of the Wrongful Death Beneficiaries
of ROBERT WAYNE PLUMIER, and the ESTATE
OF ROBERT WAYNE PLUMIER, Deceased**

BY: /s/Douglas L. Tynes, Jr.
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CERTIFICATE OF SERVICE

I, DOUGLAS L. TYNES, JR., do hereby certify that I electronically filed the above and foregoing *Motion for Discovery on Limited Issue of Qualified Immunity and for Extension of Time to Answer Motion* with the Clerk of the Court utilizing the ECF system, which provides notification of said filing to the following:

Counsel for Mississippi Department of Corrections; South Mississippi Correctional Institution; Jacquelyn Banks, Marshall Turner and Brenda Sims, in their individual and official capacities:

Jim Hood, Attorney General
Tommy D. Goodwin, Special Assistant Attorney General
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Counsel for Wexford Health Sources, Inc.:

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Mr. Smith: vsmith@bnlawfirm.com

SO CERTIFIED on this the 6th day of March, 2018.

s/Douglas L. Tynes, Jr.

DOUGLAS L. TYNES, JR.

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